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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 DANIEL MEYERS,

12 Plaintiff,

13 v.

14 DCT TECHNOLOGIES, INC, et al.,

15 Defendants.

CASE NO. 11-cv-05595 RBL

ORDER ON PLAINTIFF'S MOTION TO  
COMPEL AND DEFENDANTS' MOTION  
FOR PROTECTIVE ORDER

16 The Honorable Ronald B. Leighton referred all discovery matters in this case to the  
17 undersigned on May 25, 2012 (ECF No. 29).

18 Plaintiff Daniel Meyers brought a Motion to Compel Discovery and for Sanctions (ECF  
19 No. 24). The Court has reviewed the motion and all supporting and opposing pleadings (ECF  
20 Nos. 24, 25, 26, 30, 31). Defendants have filed a Motion for Protective Order, Attorney Fees and  
21 Sanctions (ECF No. 27) This Court has reviewed the motion and all supporting and opposing  
22 pleadings (ECF Nos. 27, 28, 32, 33, 34, 35).

23 The Court reminds the parties of Judge Leighton's first Minute Order Regarding  
24 Discovery and Depositions in this case (ECF No. 2), filed shortly after the matter began. The

1 first line of that order reads, “All discovery matters should be resolved by agreement if possible.”

2 Id.

3 The Minute Order goes on to state:

4 The conduct of the parties in pre-trial matters should be guided by the  
5 provisions of the Code of Pre-Trial Conduct published by the American  
6 College of Trial Lawyers which can be found at [www.actl.com](http://www.actl.com)  
(publication).

7 Among other things, that Code sets forth the following requirements for discovery practice:

8 (4) When a discovery dispute arises, opposing lawyers must attempt  
9 to resolve the dispute by working cooperatively together. Lawyers  
10 should refrain from filing motions to compel or for court intervention  
unless they have generally tried, but failed, to resolve the dispute  
through all reasonable avenues of compromise and resolution.

11 Plaintiff has the right, and defendant must submit, to appropriate discovery requests.

12 Discovery requests must be narrowly drafted to address issues in dispute, not broadly including  
13 matters that cannot lead to the discovery of relevant evidence. It is also insufficient to provide  
14 responses to those discovery requests that include boilerplate objections without making any  
15 attempt to provide substantive answers. Based on a review of the submissions, neither party has  
16 complied with these guidelines.

17 Under certain limited circumstances, parties are entitled to keep information confidential.  
18 However, Local Rule 26(c)(2) makes clear that the court will not sign stipulated protective  
19 orders to allow the sealing of unidentified documents that the parties have marked or expect to  
20 mark as confidential during discovery. While parties frequently reach agreements regarding the  
21 exchange of confidential information in discovery, and those agreements are often essential to  
22 efficient discovery, the court will generally not convert those agreements into an order because  
23 of the strong public policy in favor of full disclosure.

1           Regardless of whether the party is seeking discovery or seeking protection from  
2 discovery, the rules make clear that the parties are to confer in good faith to resolve those  
3 differences without court involvement. Court Rule 37(a)(2)(A), LCR 26(c)(1).  
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5           Here, neither party has complied with the rules. Plaintiff's counsel first "conferred" with  
6 defense counsel on April 30, 2012 (ECF No. 25, page 2). Based on the representations made by  
7 defense counsel, this conference consisted mostly of both sides standing on their positions  
8 without a meaningful discussion (ECF No. 28, page 3-4). Apparently, this conference took place  
9 shortly after settlement discussions failed (id.). This motion followed ten days later, apparently  
10 without any meaningful discussions.

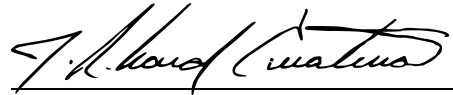
11           In the interim, defendant did no more than draft a proposed protective order (id. at page  
12 5). This proposed protective order fails to comply with the court rules and contemplates the  
13 court signing an order making certain documents confidential without any specific showing that  
14 a document meets the requirements of CR 26(c). Again, there was very little discussion other  
15 than an exchange of drafts on an order that the Court will not enter.

16           The "meet and confer" requirement is not intended to be an obstacle, but rather a vehicle.  
17 Counsel's responsibility is not to send an email, have a meeting, and then check the box  
18 indicating that they have conferred "in good faith." Rather, counsel are required to make a  
19 reasonable attempt to determine if solutions can be found to difficult discovery issues. The  
20 Court finds that this has not been done here.

21           Based on the foregoing, the Court DENIES both plaintiff's and defendants' motions. The  
22 Court will not enter an order for sanctions or fees at this time, but reserves the right to do so if  
23 the parties are unable to reach a resolution because of one party's unwillingness or inability to  
24 comply with the court rules.

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2 The parties are required to meet and confer to discuss how to resolve these discovery  
3 disputes no later than Monday, June 18, 2012.  
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5 Dated this 11th day of June, 2012.

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7 J. Richard Creatura  
8 United States Magistrate Judge  
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